

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DIANE PACKARD, the Executrix of)
the Estate of Edward A. Packard,)

Plaintiff,)

4:11CV3199

v.)

STEVEN J. DARVEAU, JR., an)
Individual, FALLS CITY AREA)
JAYCEES, a Nebraska Non-Profit)
Corporation, and CJS)
ENTERTAINMENT, INC., a)
Nebraska Corporation,)

MEMORANDUM AND ORDER

Defendants.)

The law firm of Perry, Guthery, Haase & Gessford, P.C., L.L.O. (the law firm) represents a party to this action. My wife and I have engaged in estate planning with two members of the law firm. My wife and I have made a testamentary appointment of one of those lawyers to serve as our personal representative and trustee. Under these circumstances, I have decided that I must recuse myself from this case. *See, e.g., Compendium of Selected Opinions*, § 3.6-2 (July, 2011) (*Compendium*) (where an attorney-client relationship exists between a judge and a lawyer whose law firm appears in the case, the judge should ordinarily recuse absent remittal).¹

While recusal might not be required (or remittal of disqualification might be allowed) as a general matter because of the innocuous nature of estate planning, *cf. Compendium*, § 3.6-2 (h)(1) (stating that “[t]he standard is fact specific and may not

¹The *Compendium* is available to federal judges and their staffs but not the public. It collects and summarizes the confidential opinions of the Judicial Conference’s Codes of Conduct Committee of which I am a member.

give rise to a reasonable question of partiality where the representation does not relate to significant matters, is of short duration, or is otherwise minimal and casual.”), the testamentary appointment of one of the law firm’s members as a fiduciary makes this situation “a horse of a different color” and that convinces me that recusal (without the possibility of remittal) is the more appropriate course. Therefore,

IT IS ORDERED that I recuse myself from this case. The Clerk shall forward this matter to Chief Judge Smith Camp for reassignment. The Clerk shall also provide Magistrate Judge Zwart with a copy of this memorandum and order.

DATED this 6th day of December, 2011.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge